IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

Bail Appl..No. 8007 of 2007()

SC.192/2005 of II ADDL.DISTRICT COURT,ERNAKULAM

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PETITIONER:

SIBY, AGED 27 YEARS,
S/O. JOY, OORADATHU PARAMBU,
ELAMAKKARA,
EDAPPILLY NORTH VILLAGE,
ERNAKULAM.

BY ADV. SRI.V.JOHN SEBASTIAN RALPH
SMT.PREETHY KARUNAKARAN

RESPONDENT:

STATE OF KERALA,
REP. BY THE C.I. OF POLICE,
KALAMASSERRY POLICE STATION,
REP. BY THE PUBLIC PROSECUTOR.

BY P.P. SRI. JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 8007 OF 2007

Dated this the 19th day of December, 2007

ORDER

The petitioner faces indictment in a prosecution for offences punishable, inter alia, under Sec.397 of the IPC. Investigation was completed. The case was committed to the Court of Session. The petitioner had entered appearance before the Sessions Court also, it is submitted. But consequent to his non- appearance before the learned Sessions Judge on one date of posting, a warrant of arrest is issued by the learned Sessions Judge.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence earlier was not wilful or deliberate. He is willing to surrender before the learned Sessions Judge. But he apprehends that his application for regular bail may not be considered by the

learned Sessions Judge on merits, in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Sessions Judge to release him on bail when he appears before the learned Sessions Judge.

3. It is for the petitioner to appear before the learned Sessions Judge and explain to the learned Sessions Judge the circumstances under which he could not earlier appear before the learned Sessions Judge. I have no reason to assume that the learned Sessions Judge would not consider the petitioner's application for regular bail on merits, in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the learned Sessions Judge and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned

Sessions Judge must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

5. Hand over a copy of this order to the learned counsel for the petitioner.

Sd/-
(R. BASANT, JUDGE)

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//true copy//

P.S. to Judge